

New Hope Foundation  
One Valentine Lane  
Chapel Hill, NC 27516

December 21, 2012

**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

**Re: Appeal of USAC Decision On Appeal of Administrators Decision on Appeal in CC  
Docket No. 02-6**

<b>Applicant Name:</b>	Hickory County School District
<b>Billed Entity Number:</b>	127046
<b>Funding Year</b>	2012
<b>Form 471 App. Number:</b>	828034
<b>Funding Request Numbers:</b>	2374034 & 2374045

Dear Ms. Dortch:

Hickory County School District of Hickory County, North Carolina ("Hickory County" or "District"), acting through counsel and pursuant to Sections 54.719-54.721 of the Commission's rules<sup>1</sup>, hereby timely files this Request for Review or Waiver ("Appeal"). The Appeal requests Commission review of the adverse decision of the Administrator of the Universal Service Administrative Company ("USAC") denying the funding request(s) enumerated above for Funding Year 2012.<sup>2</sup>

More specifically, on October 23, 2012, USAC's Schools and Libraries Division ("SLD") issued a decision denying an appeal filed by Hickory County with USAC. In its decision on appeal USAC held that its previously-issued determination to deny funds<sup>3</sup> was justified based on findings that the District failed to properly provide sufficient evidence that the applicant made a clerical and

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<sup>1</sup> 47 C.F.R. §§ 54.719-54.721.

<sup>2</sup> Administrator's Decision on Appeal - Funding Year 2012 – 2013, Hickory County School District (October 23, 2012), attached as Exhibit 1.

<sup>3</sup>Funding Commitment Decision Letter, August 13, 2012 ("FCDL").

Ms. Marlene H. Dortch  
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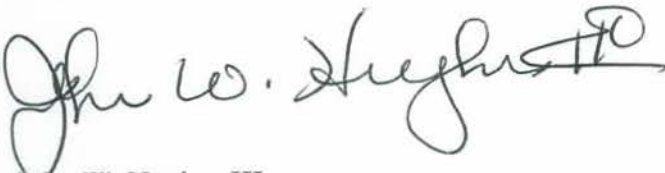
ministerial error in the preparation of its FCC Form 471. Specifically the decision stated that the documentation provided by District to support the fact that a clerical and ministerial error was made at the time of the preparation of the applicant's FCC Form 471 does not support the requested removal of four entities from Block 4 of the FCC Form 471.

We respectively disagree with this decision. We responded upon the request of USAC reviewers on October 10, 2012 and included the documentation that was used to input the list of entities in Block 4 of FCC Form 471 at the time that Form was prepared, submitted, and certified. The documents offer positive proof that indeed a clerical and ministerial error was made at the time of the preparation of the form. Further we submitted to USAC a RAL correction form on August 1, 2012 notifying USAC of the error and requesting that the error be corrected. Such notification was made prior to the issuance of the FCDL.

Hickory County is aggrieved by USAC's October 23, 2012 decision and submits that for various reasons outlined in its original August 28, 2012 appeal to USAC and others that the decision is unjustified and in error. Specifically, the decision regarding the fact of whether a clerical and ministerial error was made in the preparation of the applicant's FCC Form 471 is unwarranted and unjustified under the rules, policies and requirements governing the correction of clerical and ministerial errors.

Hickory County will supplement this Appeal with a full discussion of the facts, the District's position and supporting arguments.

Respectfully submitted,

A handwritten signature in black ink, reading "John W. Hughes III". The signature is stylized with a large, looped "J" and "H".

John W. Hughes III  
*Consultant to Hickory County School District*  
*New Hope Foundation*  
*One Valentine Lane*  
*Chapel Hill, NC 2716*

Exhibit I



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal – Funding Year 2012-2013**

October 23, 2012

John W. Hughes  
New Hope Foundation  
One Valentine Lane  
Chapel Hill, NC 27516

Re: Applicant Name: HICKORY CITY SCHOOL DISTRICT  
Billed Entity Number: 127046  
Form 471 Application Number: 828034  
Funding Request Number(s): 2374034, 2374045  
Your Correspondence Dated: August 28, 2012

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2012 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2374034, 2374045  
Decision on Appeal: **Denied**  
Explanation:

- The record shows that USAC received your Form 471 Receipt Acknowledgment Letter on August 1, 2012. You requested USAC to remove the following entities from Block 4 Worksheet #1487292: Hickory High School, BEN 29887; Jenkins Elementary School, BEN 29898; Northview Middle School, BEN 29891 and Oakwood Elementary School, BEN 29892. According to FCC Order (FCC 11-60), ministerial and clerical errors are defined as follows: "The applicant can amend its forms to correct clerical and ministerial errors on their FCC Forms 470, FCC Form 471 applications, or associated documentation until an FCDL is issued. Such errors include only the kinds of errors that a typist might make when entering data from one list to another, such as mistyping a number, using the wrong name or phone number, failing to enter an item from the source list onto the application, or making an arithmetic error." During the appeal process, we



were unable to determine whether the changes that you requested fall under the above definition of a ministerial or clerical error. Removing entities from Block 4 that were listed in the original source document is a non-allowable correction. The Program Compliance team asked you to provide a copy of the source or supporting documentation that you used to prepare your FCC Form 471 application. Specifically, the source documentation showing the entities that were scheduled to receive services under FRNs 2374034 and 2374045. The Program Compliance team also informed you that acceptable source documentation are contracts, vendor quotes, vendor bills, invoices, RFPs, board minutes, etc. The spreadsheets that you submitted in support of your argument do not prove that the entities listed above were accidentally included in Block 4 Worksheet # 1487292.

According to information submitted as Item 21 attachments the funds requested are for Priority-two services. For Funding Year 2012, given program demand, the funding cap will not provide for Internal Connections and/or Basic Maintenance of Internal Connections at your requested discount level to be funded. On appeal, you have failed to provide any evidence that USAC erred in its initial determination. Consequently, your appeal is denied.

- FCC rules require that where demand for funding exceeds available support, first priority be given to requests for Telecommunications Services and Internet Access. *See* 47 C.F.R. sec. 54.507(g)(1)(i). FCC rules further require that requests for Internal Connections be given second priority and be funded only if funds remain after support has been reserved for Telecommunications and Internet Access through all discount levels in a funding year. *See* 47 C.F.R. sec. 54.507(g)(1)(ii). For schools and libraries that create consortia for the purposes of making funding requests and sharing products and/or services, the discount level is calculated by averaging the applicable discounts of the schools and libraries that are members of the consortia. *See* 47 C.F.R. sec. 54.505(b)(4). Because discount levels for consortia are determined in this manner, the discount levels for shared products and/or services requests are single discount level percentages rather than the broad discount level percentages for individual schools and libraries as determined by the matrix. *See* Federal-State Joint Board on Universal Service, CC Docket Nos. 97-21 and 96-45, Fifth Order on Reconsideration in CC Docket No. 97-21, Eleventh Order on Reconsideration in CC Docket No. 96-45 and Further Notice of Proposed Rulemaking, 14 FCC Rcd 6033, FCC 99-49 (rel. May 28, 1999). Where demand for discounts for Internal Connections exceeds available support, FCC Rules require that funding be allocated to the most economically disadvantaged schools and libraries as determined by the matrix. *See* 47 C.F.R. secs. 54.505(c), 54.507(g)(1)(ii). Consequently, where demand for discounts for Internal Connections exceeds available support, FCC rules require that funding be awarded first to applicants eligible for a 90 percent discount level and then at each descending single discount percentage until funds are depleted. *See* 47 C.F.R. sec. 54.507(g)(1)(iii).
- The FCC's Bishop Perry Order directed USAC "to provide all E-rate applicants with an opportunity to correct ministerial and clerical errors on their FCC Form 470 or FCC Form 471, and an additional opportunity to file the required

certifications" without posting new FCC Forms 470 and 471. *See* Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Mechanism, File Nos. SLD-487170, et al., CC Docket No. 02-6, *Order*, 21 FCC Rcd 5316-5317, FCC 06-54 para. 23 (May 19, 2006) (Bishop Perry Order). As a result, USAC sends an applicant a Receipt Acknowledgement Letter (RAL) when the FCC Form 471 has been successfully data entered and provides the applicant with an opportunity to make allowable corrections to its FCC Form 471. *See* [www.usac.org/sl](http://www.usac.org/sl).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company



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Universal Service Administrative Company

Schools and Libraries Division

**FUNDING COMMITMENT DECISION LETTER**  
(Funding Year 2012: 07/01/2012 - 06/30/2013)

August 13, 2012

John Hughes  
HICKORY CITY SCHOOL DISTRICT  
1 Valentine Lane  
Chapel Hill, NC 27516

Re: Form 471 Application Number: 828034  
Billed Entity Number (BEN): 127046  
Billed Entity FCC RN: 0012022281  
Applicant's Form Identifier: 2012 P2

Thank you for your Funding Year 2012 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

- The amount, \$1,695,765.30 is "Denied."

Please refer to the Report following this letter for specific funding request decisions and explanations. The Universal Service Administrative Company (USAC) is also sending this information to your service provider(s) so preparations can begin for implementing your approved discount(s) after you file FCC Form 486, Receipt of Service Confirmation Form. A guide that provides a definition for each line of the Report is available in the Reference Area of our website.

**NEXT STEPS**

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA requirements
- File Form 486
- Invoice USAC using the Form 474 (service provider) or Form 472 (Billed Entity applicant) - as products and services are being delivered and billed

**TO APPEAL THIS DECISION:**

You have the option of filing an appeal with the SLD or directly with the Federal Communications Commission (FCC).

If you wish to appeal a decision in this letter to USAC, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
  - Appellant name,
  - Applicant name and service provider name, if different from appellant,
  - Applicant BEN and Service Provider Identification Number (SPIN),
  - Form 471 Application Number 828034 as assigned by USAC,
  - "Funding Commitment Decision Letter for Funding Year 2012," AND
  - The exact text or the decision that you are appealing.

Schools and Libraries Division - Correspondence Unit  
30 Lanidex Plaza West, PO Box 685, Parsippany, NJ 07054-0685  
Visit us online at: [www.usac.org/sl](http://www.usac.org/sl)

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3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org). USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to USAC by fax, fax your appeal to (973) 599-6542.

To submit your appeal to USAC on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054-0685

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

#### OBLIGATION TO PAY NON-DISCOUNT PORTION

Applicants are required to pay the non-discount portion of the cost of the products and/or services to their service provider(s). Service providers are required to bill applicants for the non-discount portion. The FCC stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If USAC is being billed via the FCC Form 474, the service provider must bill the applicant at the same time it bills USAC. If USAC is being billed via the FCC Form 472, the applicant pays the service provider in full (the non-discount plus discount portion) and then seeks reimbursement from USAC. If you are using a trade-in as part of your non-discount portion, please refer to our website for more information.

#### NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division  
Universal Service Administrative Company



**FUNDING COMMITMENT REPORT**  
**Billed Entity Name: HICKORY CITY SCHOOL DISTRICT**  
**BEN: 127046**  
**Funding Year: 2012**

Comment on RAL corrections: The applicant did not submit any RAL corrections.

Form 471 Application Number: 828034  
Funding Request Number: 2374034  
Funding Status: Not Funded  
Category of Service: Internal Connections  
Form 470 Application Number: 820020000984715  
SPIN: 143007139  
Service Provider Name: Dimension Data North America, Inc.  
Contract Number: N/A  
Billing Account Number: 828-322-2855  
Multiple Billing Account Numbers: N  
Service Start Date: 07/01/2012  
Service End Date: N/A  
Contract Award Date: 03/17/2012  
Contract Expiration Date: 09/30/2013  
Shared Worksheet Number: 1487292  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$0.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$1,629,688.00  
Pre-discount Amount: \$1,629,688.00  
Discount Percentage Approved by the USAC: 85%  
Funding Commitment Decision: \$0.00 - Srvc/Discnt will NOT be funded  
Funding Commitment Decision Explanation: DR: Given Program demand, the funding cap will not provide for Internal Connections and/or Basic Maintenance of Internal Connections at your approved discount level to be funded. Please see <http://www.universalservice.org/sl> for further details.

FCDL Date: 08/13/2012

Wave Number: 006

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2013

Consultant Name: New Hope Technology Foundation

Consultant Number (CRN): 16054699

Consultant Employer: New Hope Technology Foundation



FUNDING COMMITMENT REPORT

Billed Entity Name: HICKORY CITY SCHOOL DISTRICT  
BEN: 127046  
Funding Year: 2012

Comment on RAL corrections: The applicant did not submit any RAL corrections.

Form 471 Application Number: 828034  
Funding Request Number: 2374045  
Funding Status: Not Funded  
Category of Service: Internal Connections  
Form 470 Application Number: 820020000984715  
SPIN: 143024151  
Service Provider Name: CNIC, Inc.  
Contract Number: N/A  
Billing Account Number: 828-322-2855  
Multiple Billing Account Numbers: N  
Service Start Date: 07/01/2012  
Service End Date: N/A  
Contract Award Date: 03/17/2012  
Contract Expiration Date: 09/30/2013  
Shared Worksheet Number: 1487292  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$365,330.00  
Pre-discount Amount: \$365,330.00  
Discount Percentage Approved by the USAC: 85%  
Funding Commitment Decision: \$0.00 - Srvc/Discnt will NOT be funded  
Funding Commitment Decision Explanation: DR: Given Program demand, the funding cap will not provide for Internal Connections and/or Basic Maintenance of Internal Connections at your approved discount level to be funded. Please see <http://www.universalservice.org/sl> for further details.

FCDL Date: 08/13/2012  
Wave Number: 006  
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2013  
Consultant Name: New Hope Technology Foundation  
Consultant Number (CRN): 16054699  
Consultant Employer: New Hope Technology Foundation